IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 14TH NOVEMBER 2007 / 23RD KARTHIKA 1929

Crl.MC.No. 3421 of 2007()

CMP.3618/2007 of JUDL.MAGISTRATE OF FIRST CLASS-I, ERNAKULAM

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PETITIONER: PETITITONER

THE COCHIN CLEARING HOUSE
PLOT NO. 54 BRISTOW ROAD, COCHIN 682003
REP. BY ONE OF ITS PRINCIPLE OFFICER
ASSISTANT MANAGER NAD LETTER OF AUTHORITY HOLDER
M.R.JOSHY.

BY ADV. SRI.BLAZE K.JOSE

RESPONDENT: RESPONDENT:

STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM, REPRESENTING THE SUB INSEPCTR OF POLICE
HARBOUR POLICE STATION, KOCHI CITY.

BY P.P.SRI.P. RAVEENDRA BABU

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 14/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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Crl.M.C.No. 3421 of 2007

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Dated this the 14th day of November, 2007

ORDER

Petitioner is the de facto complainant in a crime registered for offences punishable, inter alia, under Section 380 IPC. The crime relates to theft of coffee beans and coffee powder belonging to the petitioner in a container. Crime was registered. Investigation was conducted. The alleged stolen articles were seized by the Police in the course of the investigation. Seizure was reported to the Court. The petitioner filed an application for release. The Police did not raise any objection. The learned Magistrate directed release of the articles to the petitioner subject to conditions. The petitioner is aggrieved by the condition imposed by the learned Magistrate that the petitioner must either ”deposit Rs.5 lakhs or produce bank guarantee for the said amount”.

2. The learned counsel for the petitioner submits that there is absolutely no necessity for imposing such an onerous condition. The article is stolen from the petitioner's possession. No one has any dispute on that aspect. The stolen article was

recovered by the Police in the course of investigation. No other claimant is also in the Court. In these circumstances, insistence of such onerous condition of depositing Rs.5 lakhs or producing bank guarantee for the said amount may be altered, it is submitted.

3. Notice was given to the learned Public Prosecutor . The learned Public Prosecutor does not raise any objection. In these circumstances, I am satisfied that it is not necessary to rigidly insist on deposit of 5 lakh or production of bank guarantee for the said amount. It is sufficient that the petitioner executes a bond for Rs.5 lakhs with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate .

4. This Crl.M.C is accordingly allowed. The condition imposed in the impugned order shall stand modified to the above extent. The condition that sufficient quantity of the article must be taken as sample for identification at the time of trial shall, needless to say, continue.

(R.BASANT, JUDGE)

sj